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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,029	08/26/2003	Kenneth J. Kledzik	2087.303C	2417
49837	7590	05/23/2006	EXAMINER	
S2IPLAW, PLLC 300 MASSACHUSETTS AVENUE, NW SUITE 1101 WASHINGTON, DC 20001-2692			HA, NATHAN W	
			ART UNIT	PAPER NUMBER
			2814	

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/648,029	Applicant(s) KLEDZIK ET AL.	
	Examiner Nathan W. Ha	Art Unit 2814	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 35-67.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: The reply after final rejection filed 2/17/06 has been considered, particularly, the declaration, but is ineffective to disqualify Lin as prior art under 102 (e) against the Applicants. For instance, the declaration does not positively identify the various features shown in the accompanying exhibits but merely sets forth what the inventors/declarants recall the various drawn features to be and not what these features actually depict.

In order to establish that the drawings shown in the Exhibits are evidence of conception of the claimed invention, the declaration must establish nexus or a direct link between the Exhibits and the claims.


Furthermore, assuming arguendo that the declaration is sufficient to establish conception, the assertion of due diligence from the date prior to the critical date of the Lin reference to the date of constructive reduction to practice cannot be accepted as diligence since the activities during this period have not been accounted for along with a time line.

For the above stated reasons, the 1.131 declaration is inadequate to disqualify Lin as prior art against the Applicants and to obviate the rejections based on Lin.

Applicants further submit that the combination as mentioned is improper since Lin teaches away from Bhakta. And the BGAs are not BSBs. This is not persuasive. Lin was incorporated therein to establish the obviousness and well-known of BGA connection type that is used to provide connection between devices, for example, chip to circuit board, or circuit board to circuit board, as shown in Lin's fig. 2A. Therefore, the BGAs and BSBs provide the same function of connecting devices electrically. It is therefore fair and proper to introduce Lin to show such function and in order to obviate what is missing in Bhakta.

Applicants further contend that Bhakta does not show a recess, and an opening and a recess are not the same. This is not persuasive. Applicants broadly claim that the recess is for receiving portion of the device. The element in Bhakta is considered to be the recess since it is capable of performing such function.

For the above reason, all claims stand rejected over the prior art of records.


5/18/06